



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT, MADURAI

( Criminal Jurisdiction )

Date on which reserved : 01/08/2019

Date on which pronounced : 05/08/2019

PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL MP(MD) . No.6255 of 2019

in

CRL OP(MD) . No.4581 of 2019

Raghuraman, ... Petitioner/Accused(Sinle)

Vs

The State rep by  
The Inspector of Police,  
All Women Police Station, Alangulam,  
Tirunelveli District, ( Crime No.4 pf 2019).  
... Respondent/Complainant

For Petitioner : M/s.R.Anand,  
Advocate.

For Respondent : Ms.Anantha Devi,  
Government Advocate (Crl.Side)

PETITION FOR RELAXATION Under Sec.439(1)b of Cr.P.C

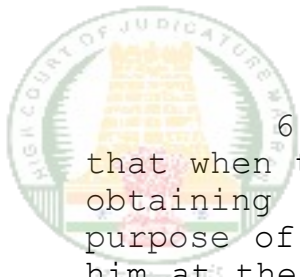
PRAYER :-

To relax the condition imposed by this Honourable Court in  
Crl.O.P(MD).No.4581/2019 vide its order dated 10/04/2019.

ORDER : The Court Made the following order :-

The petition has been filed to relax the condition imposed by  
this Court on the petitioner in CRL OP(MD) No.4581 of 2019, dated  
10.04.2019.





6.The learned counsel for the petitioner further submitted that when the petitioner was in prison, he was misled by saying that obtaining the signature in an affidavit is a formality for the purpose of coming out on bail. Because of his distress mind had by him at the point of time, having no other option, he has subscribed his signature without even understanding as to the necessity, consequences, effect and impact of filing such affidavit before this Court. He further submitted that after coming out on bail, the petitioner came to a clear understanding that this Court, for grant of bail, had taken note of the affidavit filed by the petitioner. She further submitted that he bonafidely feels that in the event of having a marriage with the victim girl, he will not be at safe and in case, if a married life is arranged between the petitioner and the alleged victim girl, because of her character, day-by-day, the petitioner would be under the apprehension that she may at any moment may foist any case for the purpose of achieving her object. He further submitted that living with victim as husband and wife is impossible. He further submitted that the aforesaid condition is an onerous one and no such condition can be imposed, while granting bail to the petitioner and therefore, he prayed to relax the said condition.

7.In support of the aforesaid contentions, the learned counsel for the petitioner has relied upon the following decisions:

i) **Sumitha Mehta Vs. State of N.C.T of Delhi (arising out of Special Leave Petition (Crl.) No.2 of 2013)**, of the Honourable Supreme Court, dated 13.08.2013

ii) **M.D.Dhanapal Vs. State rep. By the Inspector of Police (Petition for Special Leave to Appeal (Crl.) No(s).5195-5196/2019)**, dated 30.04.2018 of the Honourable Supreme Court.

iii) **Sagayam @ Devasagayam Vs. State rep. By the Inspector of Police, 2017 (3) CTC 291.**

8.Per contra, the learned Government Advocate (Crl. Side) appearing for the respondent has submitted that the petitioner and the defacto complainant loved each other and by giving false promise that he will marry her had sexual intercourse with her and thereafter, he refused to marry her and also abused her and criminally intimidated her and hence, F.I.R has been registered against the petitioner under Sections 417, 376, 294(b) and 506(i) I.P.C in Cr.No.4/2019 on the file of the respondent Police. She further submitted that the petitioner was arrested on 06.03.2019 and remanded to judicial custody. She further submitted that the petitioner has moved bail application before this Court in Crl.O.P. (MD). No. 4581 of 2019 and when the said petition came up for hearing,



the learned counsel for the petitioner has submitted that the petitioner is ready to marry the victim girl, if he is released on bail and also filed an affidavit of the petitioner before this Court. She further submitted that in the said affidavit, the petitioner gave an undertaking that he will marry the victim girl and only on considering the said affidavit, this Court has granted bail to the petitioner by imposing conditions and one such condition is that he shall marry the victim girl, as per the affidavit filed by him. She further submitted that after getting bail from this Court, the petitioner has breached his undertaking, which was given by him before this Court and the conduct of the petitioner would amount to contempt of court and therefore, she strongly opposed this petition.

9. In **Sumitha Mehta Vs. State of N.C.T of Delhi (arising out of Special Leave Petition (Crl.) No.2 of 2013)**, the Honourable Supreme Court in paragraph No.16, has observed as follows:

"16. The words "any condition" used in the provision should not be regarded as conferring absolute power on a Court of law to impose any condition that it chooses to impose. Any condition has to be interpreted as a reasonable condition acceptable in the facts permissible in the circumstance and effective in the pragmatic sense and should not defeat the order of grant of bail. We are of the view that the present facts and circumstances of the case do not warrant such extreme condition to be imposed."

10. In **M.D.Dhanapal Vs. State rep. By the Inspector of Police (cited supra)**, this Court, while granting bail, has directed the accused to pay a sum of Rs.10,00,000/- to each of the family members of the deceased and totally, the accused has to pay Rs.70,00,000/-. As against the said order, the accused has filed an appeal before the Honourable Supreme Court. The Honourable Supreme Court has held that it is well-settled that bail cannot be made conditional upon heavy deposits beyond the financial capacity of an applicant for bail.

11. In **Sagayam @ Devasagayam Vs. State rep. By the Inspector of Police (cited supra)**, this Court, while granting anticipatory bail, in Crl.O.P.(MD).No.2891 of 2017, by the order dated 21.02.2017, among other conditions, has imposed the following condition:

"6(iv) Petitioner shall execute a bond for Rs.15,000/- (Rupees fifteen thousand only) with two sureties, who shall be blood related, each for a like sum to the satisfaction of the said Magistrate."

The accused has filed Crl.M.P.No.3888/2017 to modify the said condition. In that petition, this Court has modified the said condition and issued certain guidelines to the Subordinate Courts.



12. In this case, this Court, while granting bail to the petitioner, in paragraph No.3 has observed as follows:

"3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he did not commit any offence as alleged by the prosecution. He would further submit that he is ready to marry the victim girl after he released on bail and filed an affidavit before this Court. The relevant paragraph of the affidavit reads as follows:

"In the prison I think over about the relationship between myself and the defacto complainant namely Uma and I have taken decision to marry the defacto complainant by considering my future as well as her future. I prepared to marry the victim girl with the blessings of both parents on the date fixed by them. Therefore, I am filing this affidavit in order to show my Will and consent to marry the victim girl."

13. Taking into consideration of the facts and circumstances of the case and also the affidavit filed by the petitioner and considering the period of incarceration, this Court has granted bail to the petitioner by imposing certain conditions and one such condition is that the petitioner shall marry the victim girl, as per the affidavit filed before this Court. So, it appears that this Court has not imposed any condition *suo motu*. This Court has just recorded the affidavit which was filed by the petitioner. In the said affidavit, admittedly, the petitioner has stated that he is prepared to marry the victim girl. Further, the petitioner has not stated in his petition that this Court has compelled him to file such an affidavit. Therefore, the aforesaid decisions will not apply to the facts of this case.

14. As already pointed out that this Court has not imposed the said conditions *suo motu*. It just has incorporated the undertaking given by the petitioner in its order. Further, if the petitioner feels that such kind of condition cannot be imposed by this Court, he should have filed an appeal. In stead of that he cannot challenge the said order before this Court itself.

15. The case against the petitioner is that he had physical relationship with the defacto complainant by giving false promise that he will marry her and thereafter, he did not keep up the said promise. Now, it appears that after filing affidavit before the Court saying that he will marry the defacto complainant, he breached his own promise before the Court also. The conduct of the petitioner cannot be appreciated. Further, if the request of the petitioner is accepted and the aforesaid condition is relaxed, it would amount to review the main order and that is not permissible under the Cr.P.C.

16. For the aforesaid reasons, this court is of the view  
<https://hcservices.ecourts.gov.in/hcservices/>



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that this petition is not maintainable and the same is liable to be dismissed. Accordingly, this petition is dismissed.

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05.08.2019

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Sub-Assistant Registrar (C.S.)  
Madurai Bench of Madras High Court,  
Madurai - 625 023.

To

- 1 THE JUDICIAL MAGISTRATE  
ALANGULAM, TIRUNELVELI DISTRICT
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE  
TIRUNELVELI
- 3 THE INSPECTOR OF POLICE  
ALL WOMEN POLICE STATION,  
ALANGULAM, TIRUNELVELI DISTRICT.
- 4 THE SUPERINTENDENT  
CENTRAL PRISON, PALAYAMKOTTAI
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,  
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER  
in  
CRL MP(MD) No.6255 of 2019  
in  
CRL OP(MD) . No.4581 of 2019  
05.08.2019

KM/PN/SAR-III (14.08.2019) 6P 6C